

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MAGISTRATE JUDGE NO.
23-mj-05115-JGD

UNITED STATES OF AMERICA

v.

FRANCISCO SEVERO TORRES

ORDER ON DEFENDANT'S COMPETENCY TO STAND TRIAL

July 12, 2023

DEIN, M.J.

The defendant is charged in a criminal complaint with interference and attempted interference with flight crew members and flight attendants using a dangerous weapon, in violation of 49 U.S.C. § 46504. An initial appearance was held on March 6, 2023, and defense counsel was appointed. On March 9, 2023, the Government filed a Motion for Competency Evaluation pursuant to 18 U.S.C. §§ 4241(a), 4241(b) and 4247(b) and 4247(c), along with supporting exhibits. (Docket No. 12). The Motion was allowed after hearing, and on March 10, 2023 the Court issued an Order of Commitment for Competency Evaluation Court pursuant to 18 U.S.C. §§ 4241(a) and 4247(b). (Docket Nos. 17 & 18). The defendant was transferred to Federal Medical Center, Devens for evaluation. On June 13, 2023, FMC Devens issued a Forensic Evaluation concluding that the defendant does not understand the nature and consequences of the proceedings against him and is unable to assist in his defense. The Forensic Evaluation was transmitted to the court under cover letter dated June 20, 2023.

A competency hearing was held on July 12, 2023 at which the defendant appeared, with

counsel. The Forensic Examination was entered into evidence, under seal, as Exhibit 1. The defendant, through counsel, waived his right to a further hearing, to cross-examine any witnesses, or to present additional evidence. The defendant did, however, ask that he be released so that he could further investigate the conspiracy which eventually led to his actions on the plane. The Court considered, but denied, the request.

The Court hereby finds, by a preponderance of the evidence, that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. The Court bases the finding of incompetency on the Forensic Examination, the statements of counsel, and the Court's observation of the defendant's demeanor and position at the hearing.

WHEREFORE, in accordance with 18 U.S.C. § 4241(d), the Court hereby commits the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility. The hospitalization shall be:

- (1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward; and
- (2) for an additional reasonable period of time until -
 - (a) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the proceedings to go forward; or
 - (b) the pending charges against him are disposed of according to law; whichever is earlier.

The Court requests that, if appropriate, the treatment take place at Federal Medical Center,

Devens, where the defendant has engaged with staff.

The Court further orders the Bureau of Prisons to provide a report, within sixty days of entry of this Order, regarding (1) whether a substantial probability exists that in the foreseeable future the defendant will attain the capacity to permit the proceedings to go forward, and (2) if so, an approximation of the anticipated period required to enable the defendant to attain the capacity to permit the proceedings to go forward. It is further ordered that the period of delay resulting from the hospitalization of the defendant for the purposes described above and any subsequent judicial proceedings to determine the defendant's competency shall be excluded from the computation of deadlines under the Speedy Trial Act, 18 U.S.C. § 3161(h)(1)(A).

 /s / Judith Gail Dein
Judith Gail Dein
United States Magistrate Judge